



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2013-0145]

RIN 1625-AA08

Special Local Regulations; St. Thomas Carnival Watersport Activities, Charlotte Amalie Harbor; St Thomas, USVI

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish a special local regulation on the waters of Charlotte Amalie Harbor in St Thomas, USVI during the St. Thomas Carnival Watersport Activities, a high speed boat race. The event is scheduled to take place on Sunday, April 21, 2013. Approximately 40 high-speed power boats will be participating in the races and it is anticipated that 50 spectator crafts will be present during the races. The special local regulation is necessary for the safety of race participants, participant vessels, spectators, and the general public during the event. The special local regulation will establish the following four areas: (1) a high speed boat race area, where all persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or

remaining within; (2) a jet ski race area, where all persons and vessels, except those persons and vessels participating in the jet ski races, are prohibited from entering, transiting through, anchoring in, or remaining within; (3) a buffer zone around the race areas, where all persons and vessels, except those persons and vessels enforcing the buffer zone or authorized participants transiting to their authorized the race area, are prohibited from entering, transiting through, anchoring in, or remaining within; and (4) a spectator area, where all vessels are prohibited from anchoring and from traveling in excess of wake speed, unless authorized by the Captain of the Port San Juan or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before April 10, 2013.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal: <http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods. FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Chief Warrant Officer Anthony Cassisa, Sector San Juan Prevention Department, Coast Guard; telephone (787) 289-2073, e-mail Anthony.J.Cassisa@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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|------|---------------------------------|
| DHS | Department of Homeland Security |
| FR | <u>Federal Register</u> |
| NPRM | Notice of Proposed Rulemaking |

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax,

mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2013-0145] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2013-

0145) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

The Coast Guard is issuing this notice of proposed rulemaking (NPRM) with a comment period shorter than 30 days. The Coast Guard is doing this because the sponsor did not provide

information regarding the event details with sufficient time to provide for a 30 day comment period. This is an annual event, which in the past has not received comments from the public, however, the Coast Guard prefers to allow the public an opportunity to comment, therefore it is publishing this NPRM with a comment period shorter than 30 days.

C. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the St Thomas Carnival Watersport Activities.

On April 21, 2013, Virgin Islands Carnival Committee Inc. is sponsoring the St Thomas Carnival Watersport Activities, a series of high-speed boat races and jet ski races. The races will be held on the waters of Charlotte Amalie Harbor in St Thomas, USVI. Approximately 40 high-speed power boats will be participating in the races. It is anticipated that approximately 50 spectator vessels will be present during the races.

D. Discussion of Proposed Rule

The special local regulation encompasses certain waters of Charlotte Amalie in St Thomas, USVI. The special local regulation will be enforced from 10 a.m. until 5 p.m. on April 21, 2013. The special local regulation consists of the following four areas: (1) a high-speed boat race area, where all persons and

vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; (2) a jet ski race area, where all persons and vessels, except those persons and vessels participating in the jet ski races, are prohibited from entering, transiting through, anchoring in, or remaining within; (3) a buffer zone around the race areas, where all persons and vessels, except those persons and vessels enforcing the buffer zone or authorized participants transiting to their respective race areas, are prohibited from entering, transiting through, anchoring in, or remaining within; and (4) a spectator area, where all vessels are prohibited from anchoring and from traveling in excess of wake speed unless authorized by the Captain of the Port San Juan or a designated representative. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race area, or buffer zone; or to anchor or travel in excess of wake speed in the spectator area by contacting the Captain of the Port San Juan by telephone at (787) 289-2041, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the race area, or buffer zone; or to anchor or travel in excess of wake speed in the spectator area is granted by the Captain of the Port San Juan or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the

Captain of the Port San Juan or a designated representative. The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The economic impact of this rule is not significant for the following reasons: (1) the special local regulations will be enforced for only seven hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the race area and buffer zone, or anchor in the spectator area, without authorization from the Captain of the Port San Juan or a designated representative, they may operate in the surrounding area during the enforcement

period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the race area and buffer zone, or anchor in the spectator area, during the enforcement period if authorized by the Captain of the Port San Juan or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Charlotte Amalie harbor encompassed within the special local regulation from 10 a.m. until 5 p.m. on April 21, 2013. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please

submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does

not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform,

to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of

Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.35T07-1089 to read as follows: § 100.35T07-0145

Special Local Regulations; St Thomas Watersports Activities,
Charlotte Amalie Harbor; St Thomas, USVI.

(a) Regulated Areas. The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) Power Boat Race Area. All waters of the St Thomas Harbor located around Hassel Island, St. Thomas, U.S. Virgin Island encompassed within an imaginary line connecting the following points for the Power Boat Race: starting at Point 1 in position 18°20.19'N, 64°56.07'W; thence southeast to Point 2 in position 18°19.70'N 64°55.70'W; thence southwest to Point 3 in position 18°19.35'N, 64°55.71'W; thence west to point 4 in position 18°19.27'N, 64°56.01'N; thence north to point 5 in position 18°19.98'N, 64°56.46'W; thence northeast to point 6 in position 18°20.21'N, 064°56.31'W; thence east back to origin. All persons and vessels, except those persons and vessels participating in the high-speed boat race, are prohibited from entering, transiting, anchoring, or remaining within the race area.

(2) Jet Ski Race Area. All waters encompassed within an imaginary line connecting the following points: starting at Point 1 in position 18°20.08'N, 64°55.88'W; thence west to Point 2 in position 18°20.08'N, 64°56.06'W; thence north to Point 3 in position 18°20.28'N, 64°56.06'W; thence east to Point 4 in position 18°20.28'N, 64°55.88'W; thence south back to origin. All

persons and vessels, except those persons and vessels participating in the Jet Ski Race, are prohibited from entering, transiting, anchoring, or remaining within the race area.

(3) Buffer Zone. All waters of the St Thomas Harbor located around Hassel Island; St. Thomas, U.S. Virgin Island excluding the power boat race area and jet ski race area, encompassed within an imaginary line connecting the following points: starting at Point 1 in position 18°20.34'N, 64°55.91'W; thence southeast to Point 2 in position 18°19.70'N, 64°55.71'W; thence south to Point 3 in position 18°19.31'N, 64°55.72'W; thence southwest to Point 4 in position 18°19.23'N, 64°56.04'W; thence northwest to Point 5 in position 18°19.94'N, 64°56.50'W; thence northeast to Point 6 in position 18°20.26'N, 64°56.31'W thence east back to origin. All persons and vessels except those persons and vessels enforcing the buffer zone are prohibited from entering, transiting through, anchoring in, or remaining within the buffer zone, with the exception of authorized race participants transiting to their respective race areas.

(4) Spectator Area. All waters of the St. Thomas Harbor located east of Hassel Island, excluding the power boat race area, the jet ski race area, and the buffer zone, encompassed within an imaginary line connecting the following points: starting at Point 1 in position 18°20.30'N, 64°55.76'W; thence south to Point 2 in position 18°19.97'N, 64°55.67'W; thence northeast to Point 3 in position 18°20.19'N, 64°55.54'W; thence

northwest back to origin. On-scene designated representatives will direct spectator vessels to the spectator area.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port San Juan in the enforcement of the regulated areas.

(c) Regulations.

(1) All persons and vessels are prohibited from:

(A) Entering, transiting through, anchoring in, or remaining within the power boat race area, unless participating in the power boat race.

(B) Entering, transiting through, anchoring in, or remaining within the jet ski race area, unless participating in the jet ski race.

(C) Transiting through, anchoring in, or remaining within the buffer zone, unless enforcing the buffer zone or

a race participant transiting to their designated race area.

(D) All persons and vessels are prohibited from anchoring in, or traveling in excess of wake speed in the spectator zone.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race areas by contacting the Captain of the Port San Juan by telephone at (787) 289-2041, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port San Juan or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port San Juan or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Enforcement Date. This rule will be enforced from 10 a.m. until 5 p.m. on April 21, 2013.

Dated: March 14, 2013

D. W. Pearson
Captain, U.S. Coast Guard
Captain of the Port San Juan

[FR Doc. 2013-07573 Filed 04/01/2013 at 8:45 am; Publication
Date: 04/02/2013]